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| 24131 7590 10/13/2010<br>LERNER GREENBERG STEMER LLP<br>P O BOX 2480<br>HOLLYWOOD, FL 33022-2480 |             |                        |                     |                  |
| EXAMINER   |             |                        |                     |                  |
| EBRAHIM, ANEZ C  |             |                        |                     |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/569,780

**Applicant(s)**

RODRIGO, MIGUEL DE VEGA

**Examiner**

ANEZ EBRAHIM

**Art Unit**

2467

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 9-18 is/are pending in the application.
- 4a) Of the above claim(s) 1-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date: \_\_\_\_\_

### DETAILED ACTION

1. Claims 9-18 have been examined and are pending.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 9-11 and 14 are rejected under 35 U.S.C. 103(a) as being un patentable over US Patent 6671256 Xiong et al ((here in after "Xiong, S Patent 6882766 Corbalis et al (here in after "Corbalis") and further in view of US PG Publication US 20020114043 A1 Kozaki et al (hereinafter "Kozaki")

As per claim 9 (currently amended) Xiong teaches a method for transmitting data packets between a first communications network node (Fig 2, Box 105, communication node on NET 1) and a second communications network node ( Fig 2, Box 115, Communication node on NET 2) of an communications optical network (Fig 2, Box ), comprising:

reserving a data channel, for transmitting a first data burst having aggregated data packet (Column 2, line 14-25, reserving data channels in an optical burst-switched network and finally initial burst is reached the terminating node from through the reserved channel);

transmitting the first data burst via the data channel (Column 6, line 47-48, burst data are transmitted through the data channel 205 as per Fig 2 which is an optical communication network);

retaining the data channel for a consecutive transmission phase after transmitting the first data burst (Column 10, line 9-10, the channel is reserved or retained for the data transfer and Colum 9, line 14-17, if the reserved channel to be terminated it sends an unreserved channel bit so until that bit is not sent the channel is retained);

Xiong is silent but Corbalis teaches terminating the connection while data packets are transmitted on-the-fly when the data channel is at least partially required for transmitting a second data burst via another connection between further communication network nodes (Column 1, line 56-59, existing connection is terminated for the establishment for a new connection setup).

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention, to modify the system of Xiong by a terminating the connection only when the data channel is at least partially required for transmitting a second data burst between a third communications network node and a fourth communications network node of new connection, as suggested by Corbalis. This modification would benefit the system of Xiong for high speed data transfer in an optical network there by helping to minimize the cost and reuse of the existing switch fabric .

Combination of Xiong and Corbalis is silent but Kozaki teaches transmitting additional non-aggregated data packets on-the-fly between the nodes during the consecutive transmission phase (Para [0014], burst data may be transmitted on real time property or on the fly such that state that a delay is reduced as much as possible);

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention, to modify the combination of Xiong and Corbalis by transmitting additional non-aggregated data packets on-the-fly between the nodes during the consecutive transmission phase, as suggested by Kozaki. This modification would benefit the combination of Xiong and Corbalis for optical burst transmission in which periodic data can be multiplexed from one station to another station ( Kozaki, Para [0020]).

As per claim 10, (previously presented) combination of Xiong, Corbalis and Kozaki teaches the method according to claim 9, Xiong further teaches wherein a request to reserve transmission capacity for the new connection is sent by a reservation-requiring network node via switching devices of the network to an end node ( Xiong, *Column 2, line 15-19, reservation request from an electronic ingress edge router to a reservation termination node*), wherein the third node is the reservation-requiring network node, and wherein the fourth node is the end node (Fig 2, Box 105 is requesting node and Box 115 is a end node which receives the request).

As per claim 11 (previously presented) combination of Xiong, Corbalis and Kozaki teaches the method according to claim 10, Xiong further teaches wherein transmission capacity for the new connection is only reserved during the consecutive transmission phase (Column 2, line 16-19, a data channel along the optical path in optical burst network is reserved for transmission of burst traffic).

As per claim 14. (previously presented) combination of Xiong, Corbalis and Kozaki teaches the method according to claim 10 , Xiong further teaches wherein transmission capacity is reserved according to a two-way reservation optical burst switching principle via a request and an acknowledgement (Column 8, line 22-25, signaling processor may be required to send back an acknowledgement when it receives an DCR-Request to reserve a data channel).

4. Claims 12-13 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Xiong, Corbalis, Kozaki and further in view of US Patent 6167042 to Garland et al (here in after "Garland").

As per claim 12. (previously presented) combination of Xiong, Corbalis and Kozaki teaches the method according to claim 10, The combination does not teach but Garland teaches a method wherein a disconnect signal is transmitted via the switching devices present in the devices present in the first connection to the first node (*Column 5, line 47-50, disconnect signal is sent through the switch goes to the customer premise equipment*).

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention, to modify the combination of system of Xiong , Corbalis and Kozaki by wherein a disconnect signal is transmitted via the switching devices present in the devices present in the first connection to the first node, as suggested by Garland This modification would benefit the system of Xiong, Corbalis and Kozaki for better connection management in a switch fabric

As per claim 13. (previously presented) combination of Xiong, Corbalis and Kozaki teaches the method according to claim 11, combination is silent but Garland teaches wherein a disconnect signal is transmitted via the switching devices present in the devices present in the first connection to the first node (*Column 5, line 47-50, disconnect signal is sent through the switch goes to the customer premise equipment*).

Examiner supplies the same motivation as supplied in claim 12.

As per claim 18. (previously presented) combination of Xiong, Corbalis and Kozaki teaches the method according to claim 12, Xiong further teaches wherein a disconnect signal is only sent when an acknowledgement is issued by the end node receiving a request to reserve the transmission capacity Column 10, line 5-9, a data channel reservation acknowledgement is transmitted from the reservation termination node which can be used to send a disconnect signal ).

5. Claim 15 is rejected under 35 U.S.C. 103(a) as being un patentable over Xiong, Corbalis, Kozaki and further view of US PG Publication US 20030007219 A1 Stilling (here in after "Stilling").

As per claim 15. (previously presented) combination of Xiong, Corbalis and Kozaki teaches the method according to claim 14, combination is silent but Stilling teaches wherein the transmission capacity is reserved for bidirectional connections (Para[0009], the significant advantage of the optical transmission system according to the present invention is that, for setting up a bidirectional connection path).

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention, to modify the combination of system of Xiong, Corbalis and Kozaki wherein the transmission capacity is reserved for bidirectional connections, as suggested by Stilling. This modification would benefit the combination of system of



Xiong, Corbalis and Kozaki for high speed data network assignment of the wavelengths for the forward and backward directions, as a result of which a rapid and simple connection setup can be carried out via the bidirectional connection path.

5. Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Xiong, Corbalis, Kozaki and further in view of US Patent 6167042 to Garland.

As per claim 16. (previously presented) the combination of Xiong, Corbalis and Stilling teaches method according to claim 15, The combination does not teach but Garland teaches wherein to reserve the transmission capacity, the disconnect signal is sent to the first and second nodes (Column 7, line 28-35, switch sends disconnect signal to both customer premise equipment).

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention, to modify the combination of system of Xiong, Corbalis ,Kozaki and Stilling by wherein the transmission capacity is reserved for bidirectional connections, as suggested by Garland. This modification would benefit the system of Xiong, Corbalis ,Kozaki and Stilling for better connection management and resource sharing in a switch fabric.

As per claim 17. (previously presented) the combination of Xiong, Corbalis and Stilling teaches method according to claim 16, Xiong further teaches wherein a

disconnect signal is only sent when an acknowledgement is issued by the end node receiving the request to reserve the transmission capacity (Column 10, line 5-9, a data channel reservation acknowledgement is transmitted from the reservation termination node which can be used to send a disconnect signal ).

### ***Response to Arguments***

Applicant's arguments filed regarding the claim 9 have been fully considered but moot in view of new rejections.

### ***Conclusion***

7. Prior arts made of record, not relied upon: US Patent US 6898205 B1; US Patent US 7050718 B2; US Patent US 7263289 B2, US Patent Publication US 20030128981 A1

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANEZ EBRAHIM whose telephone number is (571)270-7153. The examiner can normally be reached on M-F 8 AM to 5 PM If attempts to

reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pankaj Kumar can be reached on (571) 272-3011. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ACE/

/Pankaj Kumar/  
Supervisory Patent Examiner, Art Unit 2467